

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Thomas Lee Pelzer,

Plaintiff,

vs.

Leroy Cartledge; Linda Freeman; Dr.  
Allen; T. Holiday; Iris McBride; and Jon  
Ozmint,

Defendants.

Civil Action No. 2:10-cv1104-RMG-RSC

**ORDER**

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Plaintiff brought this *pro se* action pursuant to 42 U.S.C. § 1983. This case was automatically referred to the United States Magistrate Judge for all pretrial proceedings pursuant to the provisions of 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) D.S.C. The Magistrate Judge recommended dismissing Plaintiff's claims for failure to prosecute due to Plaintiff's failure to file an opposition to Defendants' motion for summary judgment (Dkt. No. 31). Plaintiff has also failed to object to the R&R. As shown herein, this Court has reviewed the Record for any errors of law and agrees with the Magistrate Judge's report.

**Discussion**

The magistrate judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This


Court may also “receive further evidence or recommit the matter to the magistrate with instructions.” *Id.*

Here the Magistrate Judge twice instructed Plaintiff of the importance of filing a response to a summary judgment motion. (Dkt. Nos. 32 & 37). Nevertheless, Plaintiff failed to file any response. Further, Plaintiff has not objected to the Magistrate Judge’s recommendation that this action be dismissed for failure to prosecute. (Dkt. No. 41). As a result, this Court adopts the Magistrate Judge’s Report and Recommendation as the order of this Court and incorporates it herein.

### **Conclusion**

Accordingly, the Complaint is **dismissed** for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

**AND IT IS SO ORDERED.**

  
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Richard Mark Gergel  
United States District Court Judge

February 25, 2011  
Charleston, South Carolina